

EXAMINER'S AMENDMENT AND REASONS FOR ALLOWANCE

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/30/2007 has been entered.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Don Pelto on 2/12/2008.

The application has been amended as follows:

Cancel Claims 232-245.

Claim 246, line 1: delete "The composition of claim 245 wherein said composition consists of" and insert in place thereof the following:

-- A composition consisting of --.

Cancel Claim 248.

Claim 249, line 1: delete "The method of claim 248 wherein said composition consists of" and insert in place thereof the following:

-- A method for providing nutritional supplementation comprising administering to a patient in need thereof a composition consisting of --.

Claim 249, line 8: delete “and”.

Claim 249, line 8: after “copper” but before the period mark insert the following:

-- and one or more pharmaceutical carriers --.

Claim 250, line 5: delete “and”.

Claim 250, line 5: after “copper” but before the period mark insert the following:

-- and one or more pharmaceutical carriers --.

The following is an examiner’s statement of reasons for allowance:

The terminal disclaimer filed on 2/20/2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent 6,814,983 has been reviewed and is accepted. The terminal disclaimer has been recorded.

In consideration of the above amendment and above-mentioned terminal disclaimer, and in reconsideration of the prior Office Actions and responses thereto, the claimed invention is neither expressly disclosed nor fairly suggested by the prior art. The prior art does not disclose or make obvious the claimed multivitamin and mineral composition consisting only of the claimed vitamins and minerals in the claimed amounts and one or more pharmaceutical carriers. The claimed amount of calcium ranges from about 90 mg to about 110 mg of calcium, whereas US 6,488,956 discloses a minimum of about 160 mg calcium and the Reference Daily Intake (RDI) is 1000 mg calcium. See US 6,488,956, Column 6, lines 18-20; Council for Responsible Nutrition, Vitamin and Mineral Recommendations. The claimed amount of magnesium ranges from about 22.5 to about 27.5 mg, whereas US 6,488,956 discloses a minimum of about 160 mg magnesium and the RDI is 400 mg magnesium. See US 6,488,956, Column 6, lines 44-50; Council for Responsible Nutrition, Vitamin and Mineral Recommendations. In at least because

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the teachings of the art would lead one of ordinary skill in the art to use amounts of calcium and magnesium in amounts far greater than that claimed, there is no teaching in the prior art which would lead one of ordinary skill in the art to arrive at the specific combination of vitamins and minerals in the claimed amounts and one or more pharmaceutical carriers in a composition to the exclusion of other combinations of vitamins and minerals and amounts and one or more pharmaceutical carriers in a composition.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is 571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a compressed schedule and may be reached Monday, Tuesday, Thursday, Friday, 6:00 am – 4:30 pm (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Johann R. Richter, can be reached at (571)272-0646. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank Choi
Patent Examiner
Technology Center 1600
April 16, 2008

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/Johann R. Richter/

Supervisory Patent Examiner, Art Unit 1616